

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on October 20, 2008 (73 FR 62218). Copies of the proposed rule were mailed or sent via facsimile to all Committee members and Florida tomato handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending November 19, 2008, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving tomatoes from the 2008–09 crop, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tomatoes handled during such period. In addition, the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

■ For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

#### PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

##### § 966.234 Assessment Rate.

On and after August 1, 2008, an assessment rate of \$0.0375 per 25-pound carton is established for Florida tomatoes.

Dated: January 5, 2009.

**James E. Link,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E9–174 Filed 1–8–09; 8:45 am]

**BILLING CODE 3410–02–P**

#### FEDERAL TRADE COMMISSION

##### 16 CFR Part 1

##### Federal Civil Penalties Inflation Adjustment Act

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Final rule amendments.

**SUMMARY:** The FTC is making adjustments to certain civil penalty amounts within its jurisdiction, as required by law. These adjustments reflect inflation since the penalty amounts were last adjusted.

**EFFECTIVE DATE:** February 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kathleen R. Johnson, Attorney, Office of General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2869, [kjohnson2@ftc.gov](mailto:kjohnson2@ftc.gov).

**SUPPLEMENTARY INFORMATION:** As required at least once every four years by the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104-134, 31001(s)(1), 110 Stat. 1321-373, the FTC is making certain regulatory adjustments to civil penalty amounts within its jurisdiction. The civil penalty amounts adjusted by the FTC are set forth in Commission Rule 1.98, 16 CFR 1.98. The FTC published the original adjustments in 1996. *See* 61 FR 54548 (Oct. 21, 1996), 55840 (Oct. 29, 1996). No adjustments were warranted under the law in 2000. *See* 65 FR 69665 (Nov. 20, 2000). The FTC published adjustments to civil penalties under the Clayton Act section 11(l) and the Energy Policy and

Conservation Act section 525(a) in 2004. *See* 69 FR 76611 (Dec. 22, 2004).

Adjustments are based on the increase in the Consumer Price Index (CPI) between June of the year in which the prior adjustment was made and June of the year preceding the year in which the adjustment is being made. Thus, for civil penalties adjusted in 2004, the relevant CPI period is between June, 2004 and June, 2007. Within that time frame, the CPI has increased from 189.7 to 208.352, or 9.8%. Applying this percentage increase to currently adjusted civil penalty amounts, the FTC is adjusting civil penalty amounts currently set at \$6,500 under two statutes: the Clayton Act section 11(l), for violations of cease-and-desist orders issued under section 11(b) of that Act; and section 525(a) of the Energy Policy and Conservation Act, for recycled oil labeling violations. Each will be adjusted to \$7,500, in accordance with the rounding rules of the adjustment statute.

For civil penalties that were last adjusted in 1996, the relevant CPI period is between June, 1996 and June, 2007. During this period, the CPI increased from 156.7 to 208.352 for a total percentage increase of 32.96%. Applying this percentage increase to the civil penalties as they were adjusted in 1996 results in an increase from \$11,000 to \$16,000 for civil penalties in the following statutes: premerger notification violations under the Hart-Scott-Rodino Antitrust Improvements Act section 7A(g)(1), unfair or deceptive acts or practices under the FTC Act sections 5(l), (m)(1)(A) and (m)(1)(B), and energy conservation violations under the Energy Policy and Conservation Act section 525(b). Further, applying the CPI increase to credit reporting violations under the Fair Credit Reporting Act section 621(a)(2) raises that penalty amount from \$2,500 to \$3,500.

The FTC is amending Commission Rule 1.98 by modifying paragraphs (a) through (e), (l) and (m) and adding paragraph (n) to reflect these adjustments, which will become effective thirty days following publication.

The FCPIAA rounding rules do not authorize the FTC at this time to increase the amounts of the other civil penalties within its jurisdiction. Increases in civil penalties of greater than \$100 and less than or equal to \$1,000 must be in \$100 increments, and the increase in the CPI was not high enough to round up any adjustment to \$100. Accordingly, all other paragraphs of Commission Rule 1.98 remain unchanged.

Likewise, the FTC is not adding new adjustments for other statutory civil penalty amounts that have been enacted since the last adjustments, such as the Energy Independence and Security Act of 2007 section 814(a). This authority is too recent to warrant adjustments for inflation. Similarly, the FTC is not adjusting section 1115(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 because the amount of inflation since the inception of this authority is insufficient to warrant adjustment.

In light of the ministerial nature of the adjustments, the public comment requirements of the Administrative Procedure Act (APA) do not apply to this action. 5 U.S.C. 553(b)(B) (exception when public comment is unnecessary). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. 5 U.S.C. 603 and 604 (no regulatory flexibility analyses required where the APA does not require public comment).

#### List of Subjects for 16 CFR Part 1

Administrative practice and procedure, Penalties, Trade practices.

■ For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations, as follows:

### PART 1—GENERAL PROCEDURES

#### Subpart L—Civil Penalty Adjustments Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended by the Debt Collection Improvement Act of 1996

■ 1. The authority citation for subpart L continues to read as follows:

**Authority:** 28 U.S.C. 2461 note.

■ 2. Revise § 1.98 introductory text, paragraphs (a) through (e), (l) and (m) and add paragraph (n) to read as follows:

#### § 1.98 Adjustment of civil monetary penalty amounts.

This section makes inflation adjustments in the dollar amounts of civil monetary penalties provided by law within the Commission's jurisdiction. The following civil penalty amounts apply to violations occurring after February 9, 2009.

(a) Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1)—\$16,000;

(b) Section 11(l) of the Clayton Act, 15 U.S.C. 21(l)—\$7,500;

(c) Section 5(l) of the FTC Act, 15 U.S.C. 45(l)—\$16,000;

(d) Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A)—\$16,000;

(e) Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B)—\$16,000;

\* \* \* \* \*

(l) Sections 525(a) and (b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) and (b), respectively—\$7,500 and \$16,000, respectively;

(m) Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2)—\$3,500; and

(n) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission—refer to the amounts set forth in paragraphs (c), (d), (e) and (f) of this section, as applicable.

By direction of the Commission.

**Richard C. Donohue,**

*Acting Secretary.*

[FR Doc. E9-210 Filed 1-8-09; 8:45 am]

[BILLING CODE 6750-01-S]

### DEPARTMENT OF LABOR

#### Occupational Safety and Health Administration

#### 29 CFR Parts 1910, 1915, 1917, 1918 and 1926

[Docket No. OSHA-2008-0031]

RIN 1218-AC42

#### Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Final rule; correction.

**SUMMARY:** OSHA is correcting an error in the final rule published in the **Federal Register** on December 12, 2008, clarifying employers' duty to provide personal protective equipment and to train each employee.

**DATES:** Effective January 12, 2009.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Jennifer Ashley, Director, Office of Communications, OSHA, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999 or fax (202) 693-1634.

**SUPPLEMENTARY INFORMATION:** On December 12, 2008 (73 FR 75568), OSHA issued a final rule entitled "Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee." Subsequently, an error was discovered in the amendatory language of that **Federal Register** notice. This notice is being published to correct that language.

#### Correction of Publication

In FR Doc. E8-29122 appearing on page 75568 in the **Federal Register** of Friday, December 12, 2008, the following correction is made:

#### § 1926.1101 [Corrected]

■ On page 75589, in the first column, Subpart Z, item 44, the instruction "In section 1926.1101, paragraphs (h)(1) introductory text, (h)(2), and (k)(9)(i) are revised to read as follows:" is corrected to read "In section 1926.1101, paragraphs (h)(1) introductory text, (h)(2)(i), and (k)(9)(i) are revised to read as follows":

Signed at Washington, DC, this 6th day of January 2009.

**Thomas M. Stohler,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E9-311 Filed 1-8-09; 8:45 am]

[BILLING CODE 4510-26-P]

### POSTAL REGULATORY COMMISSION

#### 39 CFR Part 3020

[Docket Nos. MC2009-7 and R2009-1; Order No. 163]

#### International Mail Contracts

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adding the Canada Post Bilateral Agreement for Inbound Market Dominant Services to the Market Dominant Product List. This action is consistent with changes in a recent law governing postal operations and a recent Postal Service request. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

**DATES:** Effective January 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

**SUPPLEMENTARY INFORMATION:** *Regulatory History*, 73 FR 70682 (November 21, 2008).

The Postal Service seeks to add a new product identified as Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services (Bilateral Agreement or Agreement) to the Market Dominant Product List. For the reasons discussed below, the Commission approves the Request.

#### I. Background

On November 13, 2008, the Postal Service filed a request pursuant to 39